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PTO/SB/22 (10-04)

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## PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional)

FY 2005

(fees effective on or after October 1, 2004)

Application Number

10/783,119

Filed

02/20/2004

For

Bradley Cooper

Art Unit

3765

Examiner

Hoey, Alissa L.

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	Fee	Small Entity Fee	
<input checked="" type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$110	\$55	\$ 55.00
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$430	\$215	\$
<input type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$980	\$490	\$
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1530	\$765	\$
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2080	\$1040	\$

☒ Applicant claims small entity status. See 37 CFR 1.27.☒ A check in the amount of the fee is enclosed. CK # 1386☐ Payment by credit card. Form PTO-2038 is attached.☐ The Director has already been authorized to charge fees in this application to a Deposit Account.☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account Number \_\_\_\_\_ I have enclosed a duplicate copy of this sheet.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the ☒ applicant/inventor.☐ assignee of record of the entire interest. See 37 CFR 3.71.  
Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).☐ attorney or agent of record. Registration Number \_\_\_\_\_☐ attorney or agent under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_Bradley Cooper  
Signature12-15-04  
DateBradley Cooper  
Typed or printed name281-343-7122  
Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 2 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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sonal knowledge that the invention was sold by applicant or known by others in this country. The language "in this country" means in the United States only and does not include other WTO or NAFTA member countries. In these cases the examiner must determine if 35 U.S.C. 102(a) or 102(b) applies. See MPEP § 2133.03 for a discussion of case law treating the "public use" and "on sale" statutory bars.

If the activity is by an entity other than the inventors or assignee, such as sale by another, manufacture by another or disclosure of the invention by applicant to another then both 35 U.S.C. 102(a) and (b) may be applicable. If the evidence only points to knowledge within the year prior to the effective filing date then 35 U.S.C. 102(a) applies. However, no rejection under 35 U.S.C. 102(a) should be made if there is evidence that applicant made the invention and only disclosed it to others within the year prior to the effective filing date.

35 U.S.C. 102(b) is applicable if the activity occurred more than 1 year prior to the effective filing date of the application. See MPEP § 2133.03 for a discussion of "on sale" and "public use" bars under 35 U.S.C. 102(b).

Note that as an aid to resolving public use or on sale issues, as well as to other related matters of 35 U.S.C. 102(b) activity, an applicant may be required to answer specific questions posed by the examiner and to explain or supplement any evidence of record. See 35 U.S.C. 132, 37 CFR 1.104(a)(2). Information sought should be restricted to that which is reasonably necessary for the examiner to render a decision on patentability. The examiner may consider making a requirement for information under 37 CFR 1.105 where the evidence of record indicates reasonable necessity. See MPEP § 704.10 *et seq.*

A 1- or 2-month time period should be set by the examiner for any reply to the requirement, unless the requirement is part of an Office action having a shortened statutory period, in which case the period for reply to the Office action will also apply to the requirement. If applicant fails to reply in a timely fashion to a requirement for information, the application will be regarded as abandoned. 35 U.S.C. 133. See MPEP § 2133.03.

If there is not enough information on which to base a public use or on sale rejection, the examiner should

make a requirement for more information. Form paragraph 7.104 can be used.

#### ¶ 7.104 Requirement for Information, Public Use or Sale

An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows: [1]

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

#### Examiner Note:

1. Information sought should be restricted to that which is reasonably necessary for the examiner to render a decision on patentability. See MPEP § 2133.03.
2. A one or two month time period should be set by the examiner for reply to the requirement unless it is part of an Office action having an SSP, in which case the period for reply will apply also to the requirement.
3. If sufficient evidence already exists to establish a *prima facie* case of public use or on sale, use form paragraph 7.16 to make a rejection under 35 U.S.C. 102(b). See MPEP § 2133.03.

### 706.02(d) Rejections Under 35 U.S.C. 102(c)

Under 35 U.S.C. 102(c), abandonment of the "invention" (as distinguished from abandonment of an application) results in loss of right to a patent. See MPEP § 2134 for case law which sets forth the criteria for abandonment under 35 U.S.C. 102(c).

### 706.02(e) Rejections Under 35 U.S.C. 102(d) [R-2]

35 U.S.C. 102(d) establishes four conditions which, if all are present, establish a statutory bar against the granting of a patent in this country:

(A) The foreign application must be filed more than 12 months before the effective filing date of the United States application. See MPEP § 706.02 regarding determination of the effective filing date of the application.

(B) The foreign and United States applications must be filed by the same applicant, his or her legal representatives or assigns.

(C) The foreign application must have actually issued as a patent or inventor's certificate (e.g., granted by sealing of the papers in Great Britain) before the filing in the United States. It need not be